1825-9

SUPREME COURT OF THE UNITED STATES.

No. 215.

THE UNITED STATES, APP'TS,

vs.

THE HEIRS OF GABRIEL ESPINOSA AND LUCINDA E. ROGUE.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

"Salinas."

INDEX.

	Original.	Print.
Proceedings of board of commissioners	1	1
Petition	5	2
Deposition of W. E. P. Hartnell	7	2
Espediente	9	3
Map	15	5
Translation	24	9
H. H. No. 1	34	15
Translation	44	20
Deed	54	25
Transfer	56	26
Opinion	58	27
Decree	60	28
Certificate	62	28
Appeal	63	29
Petition	65	29
Answer	67	30
Decree	69	31
Appeal	71	31
Clerk's certificate	72	32

1827

1 *Transcript of the proceedings in case No. 570.*

THE HEIRS OF GABRIEL ESPINOZA *et al.*, claimants,
vs.
2 THE UNITED STATES, defendant.

For the place named "Salinas."

3 OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered, that on this ninth day of February, anno Domini one thousand eight hundred and fifty-three, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, the following proceedings were had, to wit:

The petition of the heirs of Gabriel Espinosa *et al.* for the place named "Salinas," was presented and ordered to be filed and docketed with No. 570, and is as follows, to wit:

(Vide page 3 of this transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *February* 17, 1853.

In case No. 570, heirs of Gabriel Espinosa *et al.* for the place named "Salinas" the deposition of Wm. E. P. Hartnell, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, with document marked H. H. No. 1, annexed thereto, was filed.

(Vide page 4 of this transcript.)

SAN FRANCISCO, *Oct.* 3, 1853.

Case No. 570 was submitted on briefs on both sides, and taken under advisement by the board.

4 SAN FRANCISCO, *April* 4, 1854.

In the same case Commissioner R. Aug. Thompson delivered the opinion of the board rejecting the claim.

(Vide page 56 of this transcript.)

SAN FRANCISCO, *Aug't* 15, 1854.

In the same case, on motion of the United States law agent, the following order was made, to wit:

(Vide page 2 of this transcript.)

And it appearing to the satisfaction of this board that the land hereby adjudicated is situated in the southern district of California, it is hereby

Ordered, That two transcripts of the proceedings and of the decisions in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary; one of which transcripts shall be filed with the clerk of the United States district court for the southern judicial district of California, and the other be transmitted to the Attorney General of the United States.

5 *Petition.*

To the board of commissioners for ascertaining and settling private land claims in California:

The petition of the heirs of Gabriel Espinosa and Lucinda E. Pogue, of Monterey county, respectfully represent that on or about the 15th of April, 1836, Nicholas Gutierrez, governor of Upper California, granted a tract of land of about one square league in extent, (in the county of Monterey,) and bounded as follows: By the river Salinas on the southeast, by the land of Christina Delgada on the northwest, the lands of Romero on the southeast, and the Salt Lakes, inclusive, on the south; that said grant, made as aforesaid, was confirmed by the territorial deputation on or about the 9th of August, 1836; that on or about the 7th of October, 1836, the said Gabriel Espinosa received judicial possession of the said land; that the said Gabriel Espinosa died intestate on or about the 16th of November, 1850; that he left several legitimate children his heirs, to wit: Manuel Maria Francisco, (wife of Antonio Valenzuela,) José Marin, Maria Jesus, Barbara, Lucille, Juan, José Jesus, and José Manuel; that the said tract of land, granted as aforesaid, descended to the said heirs; that your petitioner, Lucinda E. Pogue, has acquired all the undivided right, title, and interest of two of the said children of the said Gabriel Espinoza, heirs to said tract of land, to wit: Manuel Espinosa and Maria Francisca, (wife of Antonio Valenzuela,) by deed of conveyance of the date of 1st of November, 1852, copies of which original grant, confirmation, judicial possession, with transla-
6 tion and deed of transfer, are herewith presented.

The premises considered, your petitioner, the said heirs of Gabriel Espinosa and Lucinda E. Pogue, claiming the undivided share of the said Manuel and Maria Francisca, pray that the said grant may be confirmed, and that they have a decree in their favor and general relief. As in duty bound.

P. ORD, *Att'y for Petitioners.*

Filed in office Feb'y 9, 1853.
(Signed) GEO. FISHER, *Sec'y.*

7 *Deposition of Hartnell.*

SAN FRANCISCO, *Feb'y* 17, 1853.

On this day, before Com'r Hiland Hall, came Wm. E. P. Hartnell, a witness in behalf of the claimants, heirs of Gabriel Espinosa *et al.*,

petition No. 570, and was duly sworn, his evidence being given in English.

The U. S. associate law agent was present.

My name is W. E. P. Hartnell; my age, fifty-five years; and I reside in Monterey.

I was acquainted with the handwriting and signatures of Nicolas Gutierrez, Francisco del Castillo Negrete, José R. Estrada, José M. Maldonado, Patrocinio Rios, and believe their signatures wherever they appear on a paper now shown me, marked H. H. No. 1, and hereto attached, to be genuine. I know the land described in the said papers. It has been occupied from about the year 1836 by Gabriel Espinosa and family until recently. I believe he is dead, and that the family he left still reside there.

W. E. P. HARTNELL.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office Feb'y 17, 1853.
(Signed) GEO. FISHER, *Sec'y.*

9 *Espediente.*

Año de 1835.—Espediente sobre el terreno que solicita Gabriel Espinosa, inmediato a las Salinas.—13.

11 Sello tercero, dos reales.

Habilitado provicionalmente por la Aduana Maritima de Monterey, de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

A. RAMIREZ.

FIGUEROA.

MONTEREY,
Agosto 12 *de* 1835.

De conformidad con las leyes y reglamentos de la materia informe el Y ayuntamiento de esta capital si el interesado en esta instancia obtiene los requisitos para ser atendido en su solicitud si el terreno ql. pretende esta comprendido en las 20 leguas limitrofes ó 10 litorales que espresa la ley de 18 de Agosto de 1824. Si pertenece a la propiedad de algun particular, mision corporacion ó pueblo ó si reconoce por baldio, con todo lo demas, que sea condescente á ilustrar la materia.

SOR. GEFE SUP'R POLITICO: El ciudadano Gabriel Espinosa, ante V. E. como mas haya lugar en derecho esponelo siguiente (de conformidad con la ley de colonizacion) que hallandose un terreno baldio en el margen del Rio Nacional hacia las Salinas rancho de la Señora Cristina, cuyo deseno acompaño y tiene de latitud media legua y de longitud un cuarto de legua con el objeto de plantar en el labores para la subsistencia de mi familia que son 4 hombres y siete mujeres espen, sor. se sirva hacerme esta gracia teniendo presente catorse años de servicio a la patria en clase de soldado creado y nacido en este territorio, y mi difunto padre fundador de el. Por tanto A. V. suplica se

12 sirva proveer en su favor de lo que recibirá justicia y juro lo necesario.

GABRIEL ESPINOZA.

Monterey, 11 de Agosto de 1835.

El Sor D. José Figueroa, general de brigada, comandante g'ral, ynspector y gefé superior politico del territorio, asi lo mando decreto y firmo de lo que doy fé.

JOSÉ FIGUEROA, *Srio.*
FCO. DEL CASTILLO NEGRETE.

MONT'Y *Ag'to* 29, 1835.

Con f'ha de hoy acordó el Y. ayuntamiento pasé á la comision de terrenos.

JOSÉ MARIA MALDONADO, *S'rio.*

Sello tercero, dos reales.

Habilitado provicionalmente por la administracion de la Aduana Maritima de Monterey, de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

FIGUEROA.
A. RAMIREZ.

13 Y. AYUNTAMIENTO:

La comision de terrenos baldios ha visto la solicitud que hace al S. gefe superior politico el C. Gabriel Espinosa pretendiendo el parage ql. se halla valdio cerca del Rancho de las Salinas de la propiedad de la Sa. Cristina Delgado, y en cumplimiento del supr. decreto de 12 del ppdo. la comision informa; que el interesado obtiene los requisitos para ser atendido en su solicitud; que el terreno q pretende, no esta comprendido en las 20 leg's limitrofes y si en las 10 litorales que espresa la ley de 18 de Ag'to de 1824; ql. no pertenece á la propiedad de ningun particular, y si á los egidos de este pueblo segun lo solicitado pr. este ayuntaimento, que tiene las tres circunstancias de ser de regadio temporal y abrevadero aunq. todo en poca cantidad á virtud de su cortedad. Por lo espuesto la comision presenta a la deliberacion de esta y corporacion la proposicion siguiente.

Pude concederse al C. Gabriel Espinosa el parage q. se halla junto al Rancho de las Salinas q. solicita pa. su cultivo sugetandose (en caso de pertenecer á los egidos) o pagar el canon ql. corresponde.

Monterey, 5 de Ybre 1835.

JOSÉ JOAQUIN GOMEZ.
MIGUEL AVILA.

MONTEREY, *Febrc* 5 *de* 1835.

En session de este dia aprovó el y ayuntam'to——————
la antecedente proposicion, y se acordó si pasé el espediente
14 al. S. Gefe Politico con el dictamen agregado como resultado del informe que se sirve pedir á esta corporacion.

DAV'D SPENCE.
JOSÉ MARIA MALDONADO,
S'rio.

MONTEREY, *Setiembre* 9 *de* 1835.

Pase al S. alcalde de esta capital ante quien la parte de Gabriel Espinosa producea una informacion de tres testigos idoneos q. seran

interregados sobre los puntos siguientes. Primero, si el solicitante es C. Mejicano por nacimiento, si es casado i tiene hijos i si es de buena conducta. Segundo, si el terreno que pretende pertenece á la propiedad de algun particular, mision o pueblo si es de regadio temporal ò abrevadero i q. si tiene con que poblado i posibilidad de adquirirlos. Evacuadas estas diligencias vuelva el espediente por su resolucion. El Sor. Dn. José Castro primer vocal de la E. departam'to territorial i gefe politico interino del territorio de la Alta California asi lo mando, decreto y firmo de la que doy fé.

JOSÉ CASTRO.

FCO. DEL CASTILLO NEGRETE, *Srio.*

(Here follows a sketch, or rough map, marked original, page 15.)

16 Sello tercero, dos reales.

Habilitado provicionalmente por la adminastracion de lo Aduana Maritima de la Monterey de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

CASTRO.
ANGEL RAMIREZ.

MONTEREY, *Setiembre* 10, *de* 1835.

Derechos 4 ps.—Notificamos al interesado presente los testigos qe. se han de ecsamniar bajo los puntos q. comprende el supo. decreta q. antecede, recibase la informacion q. se pide, y devuelvase el espdete. al espresado gefe. Asi yo el alcalde 1o constitucional lo decreté mandé y firmé contestigos de astn.

DAV'D E. SPENCE.

De assa :
MALDONADO.
JOSÉ JOAQUIN GOMEZ.

En la fha presente Gabriel Espinosa, sele notifico el anto q. antecede y digó presente qe. testigos á Felipe Aguilo, Felipe Villela y Joaq'n Alvarado, y no firmi pr. no saber lo hice yo y los de assa.

DAV'D E. SPENCE.

De assa :
JOSÉ MARIA MALDONADO.
JOSÉ JOAQUIN GOMEZ.

71 En la capital del territorio á los dos dias del mes de Nov'r de mil ochocientos trenita y cinco presente Felipe Aguila se le recibió juram'to q. hiro la forma de dro. vajo el cual afrecio decir verdad en lo q. supiere y fuere preguntado; y siendolo pr. su nombre, estado, edad patria y religion digo; llamasse como queda referida: que es soltero, de veinte y site anos, de esta capital, y C. A. R. Preguntado.

Porel interrogatorio q. se contiene en el superior decreto de 9 de Setiembre digo.

A lo 1o. Que si es ciuda. Mejicano; que es casado y tiene oncehijos y qe. es de buena conducta; y responde—

A lo 2o. Que no pertenece mas qe. á los egidos de esta pablacion; que es de abrevadero y que su estencion será de una legua; y contesta—

A lo 3o. Que se tiene bienes de campo, q. lo dicho es la verdad á cargo del juramente que tiene hecho en el que se afirmó y ratifico leida que lefué su declaracion y no firmó pr. no seber, lo hice yo y los de asa.

DAVID E. SPENCE.

De assa.:
JOSÉ MARIA MALDONADO.
JOSÉ JOAQ'N GOMEZ,

En la misma f'ha presente Felipe Villela se le recibio puramento en forma de derecho bajo el cual.

18 Sello Tercero—Dos reales. Habilitado provisionalmente por la aduana maratima de Monterey de la Alta California para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

CASTRO.
ANGEL RAMIREZ.

Afrecio decir verdad en lo qe. supiere y fuere preguntado y siendalo por su nombre, estado, edad patria, y religion; digo, se llama como queda referido; que es casado de cuarenta y tres años, y C. A. R.

Preguntado.—Por el orden ql. lo fue el anterior testigo digo:

A lo 1o. Que es ciud'o Mejicano pr. naciemente, que es casado, tiene hi josy buena conducta; y responde—

A lo 2o. Que no pertenece a particular, mision ni pueblo; que es de temporal ql., su estencion será de tres leguas; y contesta—

A lo 3o. Que se tiene bienes de campo; ql. lo dicho es la verdad a cargo del juramento q. tiene, hecho en el ql. se afirmo q. ratifico leida que le fué su declaracion. Y la firmo pr. no saner.

DAVID E. SPENCE.

De assa.: JOSÉ MARIA MALDONADO.
De assa.: JOSÉ JOAQUIN GOMEZ.

En la f'ha presente Joaquin Alvarado se le recibio peramento en forma de d'ro pon el cual afrecio decir verdad en la q. supiere
19 y fuere preguntado, y siendo por su nombre, estado, edad, patria y religion; digo, llamarse como queda dicho; que es casado de treinta y seis años, natural del Pueblo de los Ang's, y C. A. R., y.

Preguntado.—Segun lo fueron los anteriores testigos, digo:

A lo 1o. Que si es ciud'o Mejicano por nacim'to, que es casado, tiene hijos y es de buena conducta; y contesto—

A lo 2o. Que el terreno q. se pretende salee por oida que pertenece à los egidos de esta municipalidad; que es de temporal; y que su estencion será de una legua; y contesta—

A lo 3o. Que si tiene bienes de campo; que lo dicho es la verdad á cargo del juramento que tiene hecho en el que se afirmo q. ratifico leida que le fué en declaracion y la firnio y los de ass'a.

DAVID E. SPENCE.
JOAQ. ALVARADO.

De assa: JOSÉ MARIA MALDONADO.
De assa: JOSÉ JOAQUIN GOMEZ.

Concluida esta informacion se devenchre el espediente al S. gefe politico y para constancia lo anoti y rubrico.

Sello tercero, dos reales. Habitaldo provicionalmente por
20 la administracion de la de la aduana maritima de Monterey de la Alta California para los años de mil ochocientos treinto y cuatro y de mil ochocientos treinta y cinco.

CASTRO.
ANGEL RAMIREZ.

MONTEREY, *D'bre* 17 *de* 1835.

Vista la peticion con ql. dá principio este espediente el informe de la autoridad municipal con todo lo de mas ql. se tubo presente i ver convino de conformidad con las leyes i reglamentos de la materia se declara á Gabriel Espinosa deseño en propiedad del terreno inmediato á las salinas que solicita sayeto á las condiciones que se estipalaren; pare este espidiente á la deliberacion de la exma. don territorial i buelba á este oficina por su conclusion—el S. Dn. José Castro vocal de la Exma. Don i gefe politico interino asi lo mando decreto á firmo de que doy feé.

JOSÉ CASTRO.
F'CO DEL CASTILLO NEGRETE, *Srio.*

MONTEREY, *Die'bre* 19 *de* 1835.

En sesion de este dia se mandó pasar á la comision de terrenos baldios.

JOSÉ CASTRO.

En 26 de Julio se mandó pasar á la comision de colonizacion.

MALDONADO, *Srio.*

E. SOR: La comision de colonizacion á que se pasó el espe-
21 diente ql. forma la concesion hecha p'r al Sr. gefee politico al C. Gabriel Espinso del Terreno que se halla inmediato á las salinas ha visto con detenimiento el informo de los testigos visibles en las $47 9 Vta. y como se advinte que pertenece á los egidos de esta municipalidad, creé la comision que su adjudicacion deve su sugetandose, á pagar el canon que le corresponda, y en esta virtud sugeta á la deliberiacion de la E. deputacion la siguiente proposicion.

Se aprimba la concesion, hecha p'r el S. gefe politico del terreno

q se halla inmediato á las Salinas al C. Gabriel Espinosa en 1n. de Deciembre del año pp'do sugetandose á pagar el canon q corresponde p'r pertenecer á los egidos de esta municipalidad.

Monterey. Agosto 8 de 1836.

DAVID SPENCE.
JOSÉ JOAQUIN GOMEZ.

Sello tercero, dos reales. Habilitad provisionalmente por la administracion de la aduano maritima de Monterey de la Alta California para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

ANGEL RAMIREZ.
CASTRO.

MONTEREY, *Agosto* 9 *de* 1836.

En sesion de este dia aprová la E. deputacion la proposicion en ql. concluye el antecedente dictamen y se acordó se devuielba el
22 espedeente al S. gefe politico p'r su conclusion.

JUAN B. ALVARADO, *Presidente.*
JOSE MARIA MOLDONADO, *S'rio.*

MONTEREY, *Setiembre* 28 *de* 836.

En vista de la aprovacion otorgada en 8 del pasado Agosto por la exma. diputacion territorial; librese testimonio de este decreto á la parte de Gabriel Espinosa en confirmacion de la concesion del terreros de las Salinas que obtuvo en 17 de Decimbre de 1835—el Sor. D. Nicolas Gutierrez, teniente coronel de ejercito—comandante gral ynspector y gefe politico de la Alta California asi la mandó decretó y firmó de que doy feé.

NICOLAS GUTIERREZ.
MANUEL MA. GONZALEZ, *Srio Inter.*

MONTEREY, *Setiembre* 27 *de* 1836.

En esta f'ha sele dio testimonio segun lo mandado en el anteced'te decreto siendo testigos los E. C. Mariano Bonilla y José Ma. Ramorez.

GONZALES.

OFFICE OF SURVEYOR GENERAL OF THE
UNITED STATES FOR CALIFORNIA.

I, John C. Hayes, surveyor general of the United States for the State of California, and as such having in my office and in my charge and custody a portion of the archives of the former Spanish
23 and Mexican territory or department of Upper California, by virtue of the power vested in me by law, do hereby certify that the 14 preceding and hereunto annexed pages of tracing paper, numbered from one to fourteen, inclusive, exhibit a true and accurate copy of a certain document now on file and forming a part of said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city of San [SEAL.] Francisco, this third day of November, 1853.

(Signed) JOHN C. HAYES,
U. S. Surveyor General for California.

Extract from the 2nd section of the act of Congress "providing for the survey of public lands in California, and for other purposes," approved March 3d, 1853:

"The Secretary of the Interior is hereby authorized to cause an official seal to be prepared for the office of the said surveyor general, (California,) and any copy or extract from the plats, field-notes, and other records and documents, when attested as such by the said seal and the signature of the surveyor general, shall in all judicial matters have the same force and effect as the original."

Filed in office December 3rd, 1853.

(Signed) GEO. FISHER, *Sec'y.*

24 *Translation of espediente.*

YEAR 1835.

Espediente relative to the land petitioned for by Gabriel Espinosa, forming the Salinas.

No. 13.—Seal third class, two reals.

Provided provisionally for the administration of the maritime custom-house of Monterey, of Upper California, for the years 1834 and 1835.

FIGUEROA.
A. RAMIREZ.

To the superior political chief:

The citizen Gabriel Espinosa respectfully appears before you and represents, in conformity with the law of colonization, that there being a piece of vacant land on the bank of the river of Nation, as also to the Salinas ranch of the Señora Cristina, a map of which accompanies this petition, which is of the extent of a half league in breadth by a fourth of a league, with the object to cultivate it for the support of my family, which consists of four males and seven females, I hope that your excellency will grant me this favor, having been fourteen years in the service of the country as a soldier, and being a citizen by birth of this territory, and my deceased father having been one of the founders of it.

Wherefore I solicit this favor, by which I will receive justice, and swear what is necessary, &c.

GABRIEL ESPINOSA.

Monterey, 11th Aug't, 1835.

MONTEREY, *August* 12, 1835.

In conformity with the laws and regulation upon the subject, the ayuntamiento of this capital will report whether the present petitioner possesses the necessary qualifications to have this petition granted; and if the land petitioned for is within twenty leagues of the border (limitrofes) or ten leagues of the coast, (litorales,) as expressed by the law of the 18th of August, 1824; and whether it belongs to any person, mission, corporation, or town, and if it is vacant; and all that may be necessary to shed light on the subject. The exc't Don José Figueroa, general of brigade, commandante general and inspector, and superior political chief of the territory, thus commands and signs in faith.

JOSÉ FIGUEROA.

FR. CASTILLO, *Sec'y.*

MONTEREY, *Aug't 29th*, 1835.

On this day the illustrious ayuntamiento agreed to pass this to the committee on lands.

JOSÉ MARIA MALDONADO, *Sec'y.*

Seal of third class, two reals.

Provisionally provided for the administration of the maritime custom-house of Monterey, Upper California, for the years 1834 and 1835.

FIGUEROA.
A. RAMIREZ.

ILLUSTRIOUS AYUNTAMIENTO: The committee on vacant lands having seen the petition to the superior political chief of the citizen Gabriel Espinosa, asking for the place which he says is vacant, and near the rancho of Salinas, the property of Mrs. Cristina Delgada, and in pursuance of the superior decree of the 12th ult., the committee report that the petitioner possess the necessary qualifications to have his petition granted; that the land asked for is not within the 20 border leagues and is within the 10 sea-coast leagues, as expressed by the law of the 18th of August, 1824; that it is not the property of any private person, and that it appertains to the common land (egidos) of the town, according to the solicitation of this ayuntamiento; that it has the three qualities of irrigable, dependent upon the seasons, and pasture land, although in small quantities, as he says. Wherefore the committee presents to the illustrious corporation, for its deliberation, the following proposition:

The place may be granted to the citizen Gabriel Espinosa which adjoins the rancho of Salinas, solicited by him for cultivation, subject (in case it belongs to the common lands) to the payment of the corresponding tax, (censo.)

Monterey, 9th Sept., 1835.

JOSÉ JOAQUIN CARMEN.
MIGUEL AVILA.

MONTEREY, *Feb'y* 9, 1835.

In the session of this day the antecedent proposition was approved, and it was resolved to pass the espediente to the political chief, with the aggregated resolve, as the result of the report asked for of this corporation.

DAVID SPENCE.
JOSÉ MARIA MALDONADO, *Sec'y.*

MONTEREY, *Sept.* 9, 1835.

Let this be passed to the alcalde of this capital, before whom, on the part of the Gabriel Espinosa, will appear three proper
27 witnesses, who shall be interrogated upon the following points:

First. Is the petitioner a Mexican by birth? If he is married and has children, and is of good conduct.

Second. If the land asked for belongs to any individual, mission, or town, and is irrigable, dependent upon the seasons, or it pasture land, and what is its extent.

Third. If he has any agricultural things to put on it, or is likely to have them.

Having done this, let the espediente be returned for its decision. The citizen Don José Castro, first vocal of the excellent departmental territorial, and temporary political chief of Upper California, thus commands, decrees, and gives faith.

JOSÉ CASTRO.

FR. DEL CASTILLO NEGRETE, *Sec'y.*

Seal of the third class, two reals.

Provided provisionally for the administration of the maritime custom-house of Monterey, Upper California, for the years 1834 and 1835.

CASTRO.
ANGEL RAMIREZ.

MONTEREY, *September* 10, 1835.

[Fees, $4.] Let the interested party be notified to present himself with witnesses, to be examined upon the points required by the foregoing superior decree; and after receiving the information required, let the espediente be returned to the said chief.

Thus I, the 1st constitutional alcalde, decree, order, and sign, with assisting witnesses.
28

DAVID SPENCE.

De assistance of—
JOSÉ MARIA MALDONADO.
Assistance of—
JOSÉ JOAQUIN GOMEZ.

On the same day Gabriel Espinosa was notified of the foregoing decree, and he presented for witnesses, Felipe Aguila, Felipe Villela,

and Joaquin Alvarado, who did not sign, not knowing how. I signed with assisting witnesses.

DAVID SPENCE.

As't: JOSE MARIA MALDONADO.
As't: JOSE JOAQUIN GOMEZ.

In the capital of the territory, on the 2d of November, 1835, present Felipe Aguila, who, having been sworn according to law to speak the truth, was asked his name, condition, age, country, and religion. Said his name as before said; that he was unmarried; 27 years of age; of this capital, and a Roman Catholic.

In answer to the interrogatories contained in the supreme decree of the 9th of September, he said: Question 1. That he is a Mexican citizen, and is of good conduct; and answers to question 2d. that it belongs to the common lands of this town; that it has only watering places for cattle, and of the extent of one square league; and answers to question 3d. that he has agricultural things; and that what he has said is the truth, under the oath he has made, and that he heard it read, and ratifies and confirms it as his declaration. He does not sign, not knowing how. I sign with the assisting witnesses.

29 DAVID SPENCE.

Assist.: JOSÉ MARIA MALDONADO.
Assist.: JOSÉ JOAQUIN GOMEZ.

Seal of the 3d class, 2 reals.—Provided provisionally for the administration of the maritime custom-house of Monterey, of U California, for the years 1834 and '5.

CASTRO.

On the same date, present Felipe Villela, and having been sworn according to law, upon which offered to tell the truth of what he knew of what of might be asked, was asked his name, condition, age, country, and religion. Said his name is before written; that he is married; that he is 43 years old, and a Roman Catholic. But the order as given to the foregoing witness he said: question 1st, that he is a Mexican citizen by birth; that he is married, has children, and is of good character; answered to the question 2nd, that it does not belong to any individual, mission, or town; that it is dependant upon the seasons, and is of the extent of about three square leagues; and answered to the question 3rd, that he has agricultural things, which I say is the truth according to the oath I have made, which I ratify and confirm the declaration read to me. I do not sign, not knowing how.

DAVID SPENCE.

Assist.: JOSÉ MARIA MALDONADO.
Assist.: JOSÉ JOAQUIN GOMEZ.

30 On the same day, present Joaquin Alvarado, who, having been sworn according to law, offered to tell the truth in answer to all questions, was asked his name, condition, age, country, and religion. Said his name is as before said; that he is married, and thirty-six years old, and is a native of the pueblo of Los Angeles, and is a Roman Catholic.

As the foregoing witnesses were asked, he said: Question 1st, that he is a Mexican citizen by birth; that he is married, has children, and is of good character. And answers to question 2nd, that the land which is asked for he knows by hearsay to belong to the common lands of this municipality; that it is dependent upon the seasons, and that is of the extent of about one square league. And answers to question 3rd, that he has agricultural things, which, he says, is the truth, according to the oath he has taken, which he affirms and ratifies. Having read this declaration, he signs with me and the assisting witnesses.

DAVID SPENCE.
JOAQUIN ALVARADO.

Assist.: JOSÉ MARIA MALDONADO.
Assist.: JOSÉ JOAQUIN GOMEZ.

This examination being concluded, it is returned to the political chief. In testimony, I sign with my flourish.

[Flourish.]

Seal of the third class, two reals.

Provided provisionally for the administration of the maritime custom-house of Monterey, of Upper California, for the years
31 1834 and 1835.

CASTRO.
ANGEL RAMIREZ.

MONTEREY, *December* 17, 1835.

[Fees $12.] Having seen the petition which is the beginning of this espediente, the report of the municipal authorities, and all besides, which is presented, I have concluded, in conformity with the laws and regulations on the subject, to declare Gabriel Espinoza owner in full property of the land joining the Salinas, which is asked for, subject to the conditions which may be stipulated.

Let this espediente be passed to the excellent dep't territorial for its deliberation, to be returned to this office for its conclusion.

José Castro, vocal of the excellent dep't and temporary political chief, thus commands, decrees, and gives faith.

JOSÉ CASTRO.
FR. DEL CASTILLO NEGRETE, *Sec'y.*

MONTEREY, *December* 19*th*, 1835.

In the session of this day it was ordered that this be passed to the committee on colonization.

MALDONADO, *Sec'y.*

EXCELLENT SIR: The committee on colonization, to whom was passed the espediente which forms the concession made by the political chief to the citizen Gabriel Espinosa of the land which immediately adjoins the Salinas, have seen, with attention, the report of the illusttrious ayuntamiento of this port and the depositions of the witnesses

32 present, as appears in the 4 and 5th pages, and as they say it belongs to the common lands of this municipality, decide that it ought to be subject to the payment of the corresponding tax, (canon.) Wherefore, they submit it to the deliberation of the excellent deputation the following proposition:

They approve the concession which has been made by the señor political chief of all the land which immediately adjoins the Salinas to the citizen Gabriel Espinosa, on the 17th of December, of the year past, subject to the payment of the corresponding tax (censo,) for it belongs to the common lands of this municipality.

Monterey, August 8, 1836.

DAVID SPENCE.
JOSÉ JOAQUIN GOMEZ.

Seal of the 3d class, two reals.

Provided provissionally for the administration of the maritime custom-house of Monterey, Upper California, for the years 1834 and 1835.

ANGEL RAMIREZ.
CASTRO.

MONTEREY, *August* 9, 1836.

In the session of this day was approved by the excellent deputation the proposition which concludes the foregoing report, and it is ordered that the espediente be returned to the señor political chief for his conclusion.

JUAN B. ALVARADO, *Pres'd't.*
JOSÉ MARA MALDONADO, *Sec'y.*

33 MONTEREY, *September* 28, 1836.

In view of the approbation authorized by the excellent territorial deputation of the 8th of August last, let evidence of this decree be given to Gabriel Espinosa as confirmation of the concession of the land of the Salinas, which he obtained on the 17th of December, 1835.

The Señor Don Nicolas Gutierrez, lieut. col. and commandant general, inspector and political chief of Upper California, thus commands, decrees, and signs. I give faith.

NICOLÁS GUTIERREZ.
MANUEL MA. GONZALES,
Sec'y pro tem.

MONTEREY, *September* 29, 1836.

On this day delivered the evidence in accordance with the command of the foregoing decree, being witnesses the citizens Mariano Bonella, José Ma. Ramirez.

GONZALEZ.

Filed in office Dec. 3, 1853.
(Signed) GEO. FISHER, *Sec'y.*

Document H. H. No. 1, *annex'd to the deposition of Wm. E. P. Hartnell.—Signed H. H. No.* 1.

Sello segundo doce reales.

Habilitado proviscionalmente por la aduana maratima de Monterey de la Alta California, para los años de mil ochocientos treinto y cuatro y ochocientos treinto y cinco.

FIGUEROA.
A. RAMIREZ.

Revalidado para el brimio de 1836 y 1837.

GUTIERNEZ.
A. RAMIREZ.

Nicolas Gutiernez, teniente coronel de caballeria permanente, comandante general, ynspector y gefe politico, intereno de la Alta California.

Por cuanto el co. Gabriel Espinosa Mejicana por nacimiento ha pretendido para su beneficio personal y el de su familia un [SEAL.] canato de legua para labor onmediato á las salmas y cerca tres cuantos de legua para su ganado que el totale forma un, sitio escaso de ganado mayor; practicadas previamente las deligencias y aueriguaciones concernientes segun lo dispuesto por las leyes y reglamentos de la materia, usando de las facultades que me son conferidas en derecho de este den he venido en declararle la propiedad del mencionado terreno á reserva de la aprovacion de la Exma. Deputacion y bajo las condiciones siguientes:

Que se someterá á las que estableciere el reglamento que se ha de formar para la distribucion de terrenos baldios y que entre tante
35 in el agraciado ni sus herederos podran dividir ni enagenar el que se les adjudica imponer censo, vinculo fianza, hipateca ni otro gravamen aunquesea por causa prádosa ni pasarlo á manos muertas.

2a. Podra cercarlo sin perjudicar las travesias, caminos y servidumbres, destinandolo al uso y cultivo que mas le acomode pero dentro de un año a lo mas fabricara casa y esterá habitada.

3a. Solicitara del juez respectivo que le dé la posesion juridica en vertud de este despacho por el cual se demarcaran los linderos en cuyos limites pondran á mas de los mojoneros algunos arboles frutales de alguna utilidad.

4o. El terreno de que se hace donacion es de poco menos de un sitio de ganado mayor segun esplien el deseño que corres en el espediente. El juez que diere la posesion lo hará medir conforme á ordenanza, que dando el sobrante que resulte á la nacion para los usos convenientes.

5a. Sé contraviniere á estas condiciones perderá su derecho al terreno y será denenciable por otro.

En consecuencia mando que sirviendole de titulo el presente y teniendose por firme y valedero se tome razon de el en el libro que

corresponde y se entregue al interesado para su resguardo y demas fines. Dado en Monterey, á los quince dias del mes de Abril de mil ochocientos treinta y seis.

(Signed) NICOLAS GUTIERNEZ.
(Signed) F'CO DEL CASTILLO NEGRETE, *Srio.*

Queda tomada razon á fojas 105 y senalado con el No. del
36 libro que corresponde y otra en la secretaria de mi cargo.
Monterey, Abril 15 de 1836.

CASTILLO.

MONTEREY, 1836.

Concession y posesion judicial del terreno immediato á las Salinas al L. Gabriel Espinoza.

Sello tercero. [SEAL.] Dos reales.

Para los años de mil ochocientos treinta y sies y ochocientos treinta y siete.

Se aprueba la concession echa por el S. gefe politico del terreno que se halla immediato á las Salinas al G. Gabriel Espinosa en 17 de Deciembre del año ppdo. sugetandose á pagar el canon que corresponde por pertenecer á los egidos de esta municipalidad. Monterey, Agosto de 8, 1836.

JOSÉ JOAQUIN GOMEZ.
DAVID SPENCE.

MONTEREY, *Agosto* 9, *de* 1836.

En sesion de este dia aprobi la excelentissima deputacion la propocicion en que concluye el antecedente dictamen, y se acordó se devuelva el espediente al Sr. Gefe Politico para su conclusion.

JUAN B. ALVARADO, *Presidente.*
JOSÉ MARIA MALDONADO, *Srio.*

MONTEREY, *Setiembre* 28 *de* 1836.

En vista de la aprobacion otorgada en 8 del pasado Agosto por la excellentisima diputacion territorial librese testimonio de este
37 decreto á la parte de Gabriel Espinosa en confirmacion de la concesion del terreno de las Salinas que obtuvo en 17 de Diciembre de 1835. El Sr. Dn. Nicolas Gutierrez, teniente coronel de ejercito comandante gral. ynspector y gefe politico de la Alta California, asi lo mandó decretó y firmó de que doy fé.

NICOLAS GUTIERREZ.
MANUEL MA. GONZALES, *por ausencio del Srio.*

Concuerda á la letra con sus originales de los cuales hice sacar el presente testimonio en Monterey á veinte y siete de Setiembre de mil ochocientos trienta y seis, siendo testigos los C. C. Mariano Bonilla y José Ma. Ramirez de esta vecindad de que doy fé.

(Signed) NICOLAS GUTIERREZ.
MANUEL MA. GONZALEZ, *Srio. int'o.*

1843

Sello tercero, dos reales.

Habilitado provisionalmente por la administracion de la aduana maritima de Monterey de la Alta California, para los años de mil ochocientos treinta y siete.

A. RAMIREZ.
GUTIERREZ.

S. ALCALDE 1o. CONSTITUTIONAL: Gabriel Espinosa vecino de esta jurisdiccion ante V. como mas haya lugar en derecho parece y dice; que habiendo obtiendo la concesion propia del terreno que se halla inmediato á las Salinas ocurre á su autoridad con el fin de que
38 se sirva darle la posecion judiciale conforme se previene en el art'o 3o. del titulo q. original junto con el testimonio de la aprovacion de la E. deputacion y deseño, devidamente acompaño P. F.

A. V. suplica se serva proveer como lleva pedido en lo que recivira merced jurano lo necessario, &c. No se firma.

MONTEREY, 1o *de Octubre de* 1836.

Por presentado y admitido en cuanto ha lugar en derecho, procedase p. mi el presente alcalde á la medicion, senalaniento de lindero y posecion judicial que solicita el interesado en esta instancia señaldose para ejecutarlo el dia 7 del presente mes para lo que citaran con boleta de comparendo á los colindantes. Asa yo el alcalde 1o constitucional de esta demarcacion lo decreté mando y firmé con los de asistencia.

(Signed) F. JOSÉ R. ESTRADA.

De assa: (Signed) JOSÉ MARIA MALDONADO.
De assa: PETRONILO RIOS.

En la f'ha presente el C. Gabriel Espinosa, se le notifico el antecedente anto y de el entendido, digo lo oyé y q. se dá por citado y no firmó por que digo no saber, lo hice yo y los de asistencia.

(Signed) M. ESTRADA.

De assa: (Signed) JOSÉ MARIA MALDONADO.
De assa: (Signed) PETRONILO RIOS.

39 En el misma f'ha se libraron las boletas que se mandan y para constancia lo puse por nota que rubrico.

R.

Sello tercero, dos reales.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey de la Alta California, para los años de mil ochocientos treinta y seis y mil ochocientos treinta y siete.

GUTIERREZ.
A. RAMIREZ.

En el rancho de las Salinas, á los siete diaz, del mez de Octubre de mil ochocientos treinta y seis, en cumplimiento del anto de 1o del corriente, presentes Antonio Romero y Ma. Cristina, Delgado, colindantes del terreno q. se vá á dar posecion y citados para la medicion y señalamiento de linderos á nombré por medidores á los ciudadanos Gabriel Espinosa y José Arceo, quienes previda la aceptacion y juramento procederan al desempeño de su encargo; asi yo el alcalde de primera nominacion lo decretó mandé y firmé con los de assá.

(Signed) F. JOSÉ R. ESTRADA.

De assa: (Signed) JOSÉ MARIA MALDONADO.
De assa: (Signed) PETRONILO RIOS.

En el f'ha misma se les notifico á los colindantes el anto ante-
40 cedente y entendidos dijeron lo aglu, y no firmaron pr. no saber, hice lo yo con los de assa.

(Signed) M. ESTRADA.

De assa : (Sig'd) JOSÉ MARIA MALDONADO.
(Signed) PETRONILO RIOS.

En el mismo dia mes y año se le notifico el anto de su nombramiento á los C. C. Gabriel Espinosa y José Arceo, y dijeron que aceptaban y aceptaron dicho encargo y juraron por dios nuestro señor y la señal de la Cruz de usarlo fiel y legalmente a todo su leal saber y entender sin fraud contra persona alguna y no firmaron por que dijeron no saber, lo hirce yo con los de assa.

(Signed) M. ESTRADA.

De assa : (Signed) JOSE MARIA MALDÒNADO.
(Signed) PETRONELLO RIAS.

Sello tercero, [SEAL.] dos reales.

Para los años de mil ochocientos treinta y seis y ochocientos treinta y siete.

Ynmediatamente en presencia de mi el repetido juez, los espresados medidores tomaron un cordel de mecate y con una vara de medir usual Mejicana medieron cincuenta varas para hacer la medida que se relaciona y lo firmé con los de assa.

(Signed) M. ESTRADA.

De assa : (Signed) JOSE MARINE MALDONADO.
(Signed) PETRONILO RIOS.

41 En el mismo parage que se halla inmediato á las Salinas y en el propio dia mes y año yo el presente alcalde mandé á los medidores nombrados se dispongan para la medida de tierras que se hande hacer el C. Gabriel Espinosa y puertos en el chemisae de la Laguna de la Sal. se comenzó la medida hasta llegar a la orilla del rio donde se contaron treinta cordeles de á cincuenta Vs. cuya medicion es lo largo del terreno se procedio á medir el ancho y puestos en el lindero de Cristina Delgado se tiró el cordel hasta el lindero del C. José Antonio Romero y resultaron cuarenta cordeles; en cuyos

puntos, mandé se formen las mohoneras correspondientes á mas de la plantacion de riboles frutales y silvestres de alguna utilidad para que asi estos como aquellos señalar los linderos que le pertenecia.

El terreno medido corresponde a un poco menos de un sitio de ganado mayor y la firmó conmigo el colindante Romero, no haciendolo el interesado y la Sa. Cristina por no saber.

(Signed) F. JOSÉ R. ESTRADA.

De assa : (Signed) JOSE MA. MALDONADO.

De assa : PETRONELO RIOS.

En el sitio concedido á Gabriel Espinosa á los siete dias del mes de Octubre de mil ochocientos treinta y seis, yo el alcalde 1o. C. José Ramon Estrada despues de practicados las medidas por
42 las q. resulto tener poco menos de en sitio de ganado mayor, y presentes las colindantes, siendo conformes con todo lo mas q. consta de antos mandé que entrase el—

Sello tercero, [SEAL.] dos reales.

Para los años de mil ochocientos treinta y seis y mil ochocientos treinta y siete.

—C. Gabriel Espinosa en pacifica posession del terreno medido ó quien a pedimento del interesado se nombra lago las medidas citadas y formalidades acostumbrados en casos semejantes; que verifico en el momento arrancando yerbas y haciendo demostraciones como dueno de los ql. se la ha dado en posecion cuya validacion la autoriza y firmo con los de asistencia y colindante que lo supo hacer y no haciendolo las duenas pr. no saber.

(Signed) E. JOSÉ R. ESTRADA.

De assa: (Signed) JOSÉ MA. MALDONADO.

De assa: (Signed) PETRONELO RIOS.

MONTEREY, *Octubre* 10 *de* 1836.

Tomese razon en el libro de posesiones que existe la el archivo del juzgado 1o. de esta capital y hecho de vuelva se este espediente original á la parte de Gabriel Espinosa los usos que le convengan. Asi yo el espresado alcalde lo determiné y firme con los de assa.

(Signed) F. JOSÉ R. ESTRADA.

43 De assa: (Signed) JOSÉ MA. MALDONADO.

De assa: (Signed) PETRONELO RIOS.

En la misma f'ha se tomo razon en la foja qa. del libro que se manda, en el auto que antecede y se de valvio el espediente al C. Gabriel Espinosa, constante de 8 fs. utiles en el papel correspondiente y para consta lo anoto y rubrico.

R. [Rubric.]

Filed in office February 17th, 1853.

(Signed) GEO. FISHER, *Sec'y.*

44 *Translation of grant and judicial possession.*

Seal of the second class, 12 reals.

Authorized provisionally by the maritime custom-house of Monterey, of Upper California, for the years 1834 and 1835.

(Signed) FIGUEROA.
(Signed) GUTIERREZ.

Revised for the years 1836 and 1837.

A. RAMIREZ.
A. RAMIREZ.

Nicholas Gutierrez, lieut. col. of the standing cavalry, capt. general, inspector, and governor of Upper California.

Whereas the citizen Gabriel Espinosa, a Mexican by birth, has so-
[SEAL.] licited, for his personal benefit and that of his family, a quarter of a league for sowing near to the Salinas, and also three-quarters of a league for his cattle—in all about a league—the previous investigations and measures having been made, agreeably to the laws and regulations on the subject, using the faculties conferred on me, in the decree of this day I declare him the owner of the land mentioned, subject to the approbation of the excellent deputation and the following conditions:

1st. That he shall submit to the regulations that may be established for the distribution of vacant lands, and that in the mean time he will not, nor his heirs, divide, alienate, impose land rent, entail reversion, and mortgage, or impose any other burden, even for pious purposes, nor convey it in mortmain.

2d. He may enclose it without prejudice to the crossings, high-
ways, and privileges or servitudes; he shall enjoy it freely and
45 exclusively, destining it to the use or cultivation which may best suit him; but within a year he shall build a house, and it shall be inhabited.

3d. He shall solicit the respective judge to give him legal possession in virtue of this title, by whom the boundaries shall be traced out, in the limits of which he shall put, besides the landmarks, some fruit trees or wild ones of some utility.

4. The land of which donation is made is a little less than one league, as the respective map explains. The judge who gives possession shall cause it to be measured according to law, and the overplus shall remain to the nation for the necessary uses.

5th. If he shall violate these conditions, he shall forfeit his right to to the land, and it may be denounced by another.

I, consequently, command that these presents, serving as a title, and be held firm and valid, and that a record thereof be made in the respective book, and they be delivered to the party interested for his security, and farther ends, &c.

Given in Monterey the 15th of April, 1836.

(Signed) NICOLAS GUTIERREZ.
" F. DEL CASTILLO NEGRETE,
Sec'y.

A record of this title has been made at folios 105, and marked with the No. 101 of the corresponding book under my charge in my office.
Monterey, April 15, 1836.
(Signed) CASTILLO. 1836.
Dios, 5p. Monterey.

46 The grant and judicial possession of the land near the Salinas to the citizen Gabriel Espinosa.

Seal, 3d class. [SEAL.] Two reales for the years 1836 and 1837.

The grant is approved, made by the gov't, of the land which is immediately adjacent to the Salinas to the citizen Gabriel Espinosa, on the 17th of December of the present year, subject to the payment of the (censo) tax belonging to the common lands of the town of Monterey.
Monterey, August 8, 1836.

DAVID SPENCE.
JOSÉ JOAQUIN GOMEZ.

MONTEREY, *August* 19, 1836.

In session of this day the excellent deputation approved of the concluding proposition of the foregoing report, and return the espediente to the governor, being thus concluded.

JUAN B. ALVARADO, *President.*
JOSÉ MARIA MALDONADO, *Sec'y.*

MONTEREY, *September* 28, 1836.

On examining the approbation of the 8th of the past month of August by the excellent territorial deputation, pass this decree with title of Gabriel Espinosa, in confirmation of the lands of the Salinas, which he obtained on the 17th of December, 1835. The governor, Nicholas Gutierrez, lieut. col., capt.-gen., and ynspector and governor of Alta California, thus command, decree, and sign and give faith.

NICHOLAS GUTIERREZ,
47 MAN'L MA. GONZALES, *Sec'y pro tem.*

Compared and copied from the originals, in Monterey, this 27 of September, 1836, being witnesses the citizens Mariano Bonilla and José Ma. Ramirez, of this place, of which I give faith.
(Signed) NICHOLAS GUTIERREZ.
" MANUEL MA. GONZALEZ,
Sec'y pro tem.

Seal, 3d class, 2 reales.

Authorised provisionally for the administration of the maritime custom-house of Monterey, Upper California, for the years 1836 and 1837.

GUTIERREZ.
A. RAMIREZ.

To the 1st constitutional alcalde:

Gabriel Espinosa, a citizen of this district, appears, and says that having obtained the proper title to the land which adjoins the Salinas, presents himself before you, and begs that you will give him judicial possession, in conformity to the 3d article of the original title and the accompanying approbation of the excellent deputation. He prays this, swearing it is necessary, &c. He cannot write.

MONTEREY, 1*st of October*, 1836.

Considered as presented and admitted. I, the present alcalde, will proceed to the measurement, designation of boundaries, and judicial possession asked for by the party interested in this petition,
48 fixing for the execution thereof the 17th of the present month, that the neighboring landholders may be cited. This I, the 1st alcalde constitucional of this district, decree and sign with the assisting witnesses.

(Signed) JOSÉ R. ESTRADA.
(Signed) Witnesses: JOSÉ MA. MALDONADO.
" PETRONILO RIOS.

On the same day the citizen Gabriel Espinosa was notified of the foregoing. Having understood it, he said he had heard it, and considered himself cited, and not knowing how to sign, I did so with the assisting witnesses.

(Signed) ESTRADA.
Ass'g witnesses: PETRONILO RIOS.
JOSÉ MARIA MALDONADO.

On the same day the citations were served. In testimony whereof, I sign with my scroll.

Seal 3d class, 2 reals.

Authorized provisionally for the administration of the maritime custom-house of Upper California for the years 1836 and 1837.

GUTIERREZ.
A. RAMIREZ.

In the rancho of the Salinas, on the 7th of October, 1836, in pursuance of the decree of the 1st of this month, present, Antonio Romero and Maria Cristina Delgada, adjoining landowners, I proceeded to give possession and mark the boundaries, naming as meas-
49 urers the citizens Gabriel Espinosa and José Arcio, who, on accepting the charge and taking oath, will proceed to do their duty. This I, the first alcalde, commanded, decree, and sign with the assisting witnesses.

(Signed) JOSÉ R. ESTRADA.
Ass. witnesses: (Signed) JOSE MARIA MALDONADO.
" PETRONILO RIOS.

On the same day the adjoining land-owners were notified as aforesaid, who said they heard and understood it. They did not sign, not knowing how. I sign with assisting witnesses.

(Signed) JOSE MARIA MALDONADO.
" PETRONILO RIOS.

On the same day the adjoining landowners were notified as aforesaid, who said they heard and understood it. They did not sign, not knowing how. I sign with assisting witnesses.

(Signed) ESTRADA.
Assisting witnesses: (Signed) JOSE MARIA MALDONADO.
" PETRONILLO RIOS.

On the same day, month, and year I notified the citizens Gabriel Espinosa and José Arcio of their appointment, who said they accepted it; and swearing by the Lord our God and the sign of the Cross that they would execute it faithfully and legally, to the best of their knowledge, without fraud against any one, and did not sign, not knowing how. I signed, with the assisting witnesses.

(Signed) ESTRADA.
Assisting witnesses: (Signed) JOSE MARIA MALDONADO.
" PETRONILLO RIOS.

50 Then afterwards, I, the said alcalde, ordered that a cord be brought, with which the land was to be measured, and that said measurers take it and measure fifty common varas, according to law.

(Signed) ESTRADA.

Assisting witnesses:
(Signed) JOSÉ MARIA MALDONADO.
" PETRONILLO RIOS.

Seal, 3d class, [SEAL] two reals, for the years 1836 and 1837.

Immediately afterwards, in presence of me, the said judge, the said measurers took the rope, and, with a common Mexican vara, they measured fifty varas to measure with. Signed with assisting witnesses.

(Signed) ESTRADA.

Assisting witnesses:
(Signed) JOSÉ MARIA MALDONADO.
" PETRONILLO RIOS.

In the same place, at the Salinas, and on the said day, month, and year, I, the present alcalde, did command the measurers to get ready for the measurement of the land of the citizen Gabriel Espinosa, and standing at the bushes, (chemisal,) commenced the measurement and measured to the bank of the river, seventy ropes, (cordeles,) of fifty varas, which is the length of the land, and then measured the
51 breadth, standing at the line of Christina Delgada; carried the rope to the line of the citizen José Antonio Romero, a distance

of forty ropes, (cordeles;) at which points I ordered the corresponding landmarks, besides the planting of fruit trees or wild ones of some utility, that the boundaries might be known. The land measured was a little less than a league. I sign it; with me, the adjoining land-owners, Romero. The petitioner and Mrs. Cristina not signing, not knowing how.

(Signed) JOSÉ R. ESTRADA.

Assisting witnesses:
(Signed) JOSÉ MARIA MALDONADO.
" PETRONILLO RIOS.

At the place granted to Gabriel Espinosa on the 7th of September, 1836, I, the 1st alcalde, citizen José R. Estrada, having done what was requisite, found that there the land measured a little less than one league. The land-owners adjoining being present, I commanded that the citizen Gabriel Espinosa enter into the possession of the land measured, and which had been stipulated for by the party according to the said measurements and customary formalities in like cases, he did, pulling up grass and making demonstrations of being the owner of the land whereof judicial possession has been given to him, the validity of which I authorize and sign, the assisting land-owners not knowing how to sign.

Seal, 3d class, two reals, for the years 1836 and 1837. [SEAL.]

52 (Signed) JOSÉ R. ESTRADA.

Assisting witnesses:
(Signed) JOSÉ MARIA MALDONADO.
" PETRONILLO RIOS.

MONTEREY, *October* 10*th*, 1836.

Let a record be made in the book of possessions in the archives of the judge of the 1st instance of this capital, and let this original espediente be returned to Gabriel Espinosa for the ends which may best suit him.

Thus I, the said alcalde, decree and sign with the assisting witnesses.

(Signed) JOSÉ R. ESTRADA.

Assisting witnesses:
(Signed) PETRONILLO RIOS.

On the same day and date, and record was made in folio 1st of the record, and this espediente was returned to the citizen Gabriel Espinosa. Done on the corresponding book.

In testimony ($8) whereof, I sign with my flourish.

(Signed) [Flourish.]

Filed in office Feb'y 9, 1853.

GEO. FISHER, *Sec'y.*

53

54 *Deed.*

Know all men by these presents that we, Manuel Espinosa and Maria Francisca Espinosa, and Antonio Valenzuela, her husband, of the first part, and Lucinda E. Pogue, of the second part, all of Monterey county, State of California, witnesseth: That, for and in consideration of the sum of three hundred dollars cash in hand paid by the parties of the first part, the receipt whereof is hereby acknowledged, have granted, bargained, and sold, and by these presents doth grant, bargain, and sell, unto the party of the second part, all their right, title, interest, estate, claim, and demand, both at law and in equity, as well as in possession as in expectancy, of, in, and to all that certain farm or piece of land situate in the county of Monterey, State of California, and bounded as follows: By the lands of the late Cristina Delgada, on the west by the river Salinas, on the north by the Salt lakes, on the south and the east by the lands of Romero; being all the land granted to Gabriel Espinosa by Nicolas Gutierrez, governor of California, of the date of April 15, 1836, judicially possession of which was given to the said Gabriel Espinosa on the 7th of October, 1836, by José R. Estrada, containing one league, a little more or less, with all and singular the hereditaments and appurtenances thereunto belonging. To have and to hold the above-described premises, together with the appurtenances, unto the said party of the second part, her heirs and assigns forever.

In witness whereof, we have hereunto set our hands and
55 seals this first day of November, 1852, at Monterey, California.

his
MANUEL + ESPINOSA.
mark.

her
MARIA FRANCISCA + ESPINOSA.
mark.

his
ANTONIO + VALENZUELA.
mark.

Witness: PACIFICUS ORD.
" PACIFICUS ORD.
" PACIFICUS ORD.

STATE OF CALIFORNIA,
County of Monterey, ss:

On this first day of November, A. D. 1852, before me, recorder in and for said county, personally came Manuel Espinosa and Antonio Valenzuela, to me known to be the persons described in and who executed the foregoing deed or instrument of conveyance, and they acknowledged to have executed the same freely and voluntarily, and for the uses and purposes therein expressed; also on the same day, before me, appeared Maria Francisca, wife of the said Antonio Valenzuela, to me also known as one of the grantees described therein, who, being examined by me seperate and apart from her said husband, and being made acquainted with the contents thereof, declared that

she had executed the said deed freely and without fear or undue influence of or from her said husband, and did not desire to retract the execution thereof.

Done at Monterey, date last aforesaid.

56 [SEAL.] W. S. JOHNSON.
Recorder of Monterey Co.

Filed in office Octo. 21, 1853.

GEO. FISHER, *Sec'y.*

Transfer.

Know all men by these presents that we, Manuel Espinosa and Francisca Espinosa, and Antonio Valenzuela, her husband, of the first part, and Lucinda E. Pogue, of the second part, all of Monterey county, State of California, witnesseth: That for and in consideration of the sum of three hundred dollars cash in hand paid to the parties of the first part, the receipt whereof is hereby acknowledged, have granted, bargained, and sold, and by these presents doth grant, bargain, and sell, unto the party of the second part, all their right, title, interest, estate, claim, and demand, both at law and in equity, as well in possession as in expectancy of, in, and to, all that certain farm or piece of land situate in the county of Monterey, State of California, and bounded as follows: By the lands of the late Christina Delgada on the west, by the river Salinas on the north, by the Salt lakes on the south, and the east by the lands of Romero, being all the land granted to Gabriel Espinos by Nicholas Gutierrez, governor of California, of the date of April 15th, 1836, judicial possession of which was given to the said Gabriel Espinosa on the 7th of October,
57 1836, by José R. Estrada, containing one league, a little more or less, with all and singular the hereditaments and appurtenances thereunto belonging. To have and to hold the above described premises, together with the appurtenances, unto the said party of the second part, her heirs and assigns forever.

In witness whereof, we have hereunto set our hands and seals this first day of November, 1852, at Monterey, California.

his
MANUEL + ESPINOSA. [SEAL.]
mark.

her
MARIA FRANCISCA + ESPINOSA. [SEAL.]
mark.

his
ANTONIO + VALENZUELA. [SEAL.]
mark.

Witness: PACIFICUS ORD.

STATE OF CALIFORNIA,
County of Monterey, ss:

On this 1st day of November, A. D. 1852, before me, recorder in and for said county, personally came Manuel Espinosa and Antonio

Valenzuela, to me known to be the persons described in and who executed the foregoing deed or instrument, and they acknowledged to have executed the same freely and voluntarily, and for the uses and purposes therein expressed; also on the same day, before me, appeared Maria Francisca, wife of the said Antonio Valenzuela, to me also known as one of the grantors described therein, who, being examined by me separate and apart from her said husband, and being made acquainted with the contents thereof, declared that she had executed the said deed freely and without fear or undue in-
58 fluence of or from her said husband, and did not desire to retract the execution thereof.

Done at Monterey date last aforesaid.

[SEAL.] (Signed) W. S. JOHNSON,
Recorder of Monterey Co.

Filed in office Feb'y 9, 1853.
(Signed) GEO. FISHER, *Sec'y.*

Opinion.

"Salinas," one sq. league in Monterey co.

HEIRS OF GABRIEL ESPINOSA *et al.*
vs.
THE UNITED STATES. } Case No. 570.

This claim is founded on a grant made to Gabriel Espinosa by Governor Nicholas Gutierrez on the thirteenth of April, 1836, duly approved by the territorial deputation on the 9th of August, 1836, and a certificate of such approval in confirmation of the grant, dated September 26, 1836, was delivered to the grantee. Juridical possession of the land was given by the proper officer in due form of law on the 7th of October, 1836.

The original grant, approved of by the deputation, and certificate of the same, together with the record of juridical possession,
59 are all filed in the case, and their genuineness properly authenticated and proven.

It is also in proof that the land granted was occupied by the grantee and his family very recently. The case is sufficiently made out, so far as the question of the validity of the title is concerned; and there could have been no difficulty in entering a decree of confirmation had there been any evidence connecting the present claimants with the title, either as heirs or aliens of the original grantee.

The petition sets out that Gabriel Espinosa died intestate on or about the 16th of Nov., 1850; that he left several legitimate children his heirs, to wit, Manuel, Maria Francisca, wife of Antonio Valenzuela, José Maria, Maria Jesus, Barbara, Lucilla, Juan, José Jesus, and José Manuel; that the said tract of land, granted as aforesaid, descended to said heirs; that the petitioner, Lucinda Pogue, has acquired all the undivided right, title, and interest of Manuel Espinosa

and Maria Francisca, wife of Antonio Valenzuela, two of said children, by deed of conveyance, dated Nov. 1st, 1852.

In support of these allegations of the petitioner, no proof whatever is introduced, except a certified copy of the last-mentioned deed of conveyance and a statement by one witness that he believes Gabriel Espinosa is dead.

60 There is no proof whatever that the persons named in the petition are the children and heirs of the grantee, or that they have any privity of title with him. There is, therefore, an entire failure to show in the present claimants any right or title derived from the Mexican or Spanish governments to the lands claimed.

The claim must therefore be rejected.

Filed in April 4, 1854.
(Signed) GEO. FISHER, *Sec'y.*

Decree.

HEIRS OF GABRIEL ESPINOSA *et al.*
vs.
THE UNITED STATES. } Salinas.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the petitioners is not valid, and it is therefore decreed that his application for a confirmation thereof be denied.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Com's.

Filed in office April 4, 1854.

GEO. FISHER, *Sec'y.*

61 *Order.*

And it appearing to the satisfaction of this board that the land hereby adjudicated is situtaed in the southern district of California, it is hereby ordered that two transcripts of the proceedings and of the decision in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the United States district court for the southern district of California, and the other transmitted to the Attorney General of the United States.

62 OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing fifty-one pages, numbered from 1 to 51, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said board, of

the documentary evidence, and of the testimony of the witnesses, upon which the same is founded, on file in this office, in case No. 570, on the docket of the said board, wherein the heirs of Gabriel Espinosa *et al.* are the claimants against the United States, for the place known by the name of "Salinas."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, [SEAL.] this thirtieth day of October, A. D. 1854, and of the independence of the United States of America the seventy-ninth.

GEO. FISHER, *Sec'y.*

Filed Nov. 8th, 1854.

C. E. CARR, *Clerk.*

63 *Notice of appeal.*

In the district court of the United States for the southern district of the State of California:

HEIRS OF GABRIEL ESPINOSA, *et al.*, appellants,
vs.
THE UNITED STATES, appellees. } No. 570.

Please take notice that, in the above entitled cause, decided by the commissioners to ascertain and settle the private land claims in the State of California against the claimants, a transcript of which was filed in the office of the district court of the United States for the southern district of California, on the 8th day of November, A. D. 1854, the appeal in the said district court will be prosecuted by the claimant.

MYRON NORTON,
Att'y for Claimant.

Filed March 12, 1855.

64 C. E. CARR, *Cl'k.*

65 *Petition for review.*

In the district court of the United States for the southern district of California.

GABRIEL ESPINOSA, heirs of, appellants,
vs.
THE UNITED STATES, appellees. } No. 158.—Trans. No. 570.

To the Hon. I. S. K. Ogier, judge:

The petition of heirs of Gabriel Espinosa and Lucinda E. Pogue, assignee of Manuel Espinosa, and Maria Francisca, wife of Manuel Valenzuela, heirs of said Espinosa, respectfully represent: That on the 15th day of April, 1836, Gov. Gutierrez granted to Gabriel Espinosa the tract of land called Salinas, in the county of Monterey, Cal., in the south. district of Cal'a; that the said grantee died intestate,

on or about the 16th day of November, 1850; that he left the children and legal heirs, to wit: the said Manuel Maria Francisca and José Maria, Maria Jesus, Barbara, Lucilla, Juan, José Jesus, and José Manuel; that on or about the 9th day of Feb'y, 1853, the said claimants filed before the land comm'n a petition claiming said land; that on or about the 4th day of April, 1854, the said comm'n rejected said claim; that on or about the 8th day of November, 1854, the said comm'n caused a transcript of their proceedings in said cause to be filed with the clerk of this court; that on or about the 12th day of March, 1855, the said appellants filed with the clerk a notice
66 of their intention to prosecute the appeal in said cause. Your petitioners refer to said transcript for a description of the land claimed.

Wherefore your petitioners pray that the said decision of said comm'n may be reviewed and reversed, and their said claim may be declared valid, and general relief.

FREDERICK BILLINGS,
Att'y for Petitioners and Claimants.

Filed Feb'y 6th, 1857.

C. SIMS, *Clerk.*

67 *Answer.*

In the district court of the U. States for the southern district of Cal'a, Hon. Isaac S. K. Ogier, judge.

GABRIEL ESPINOSA, heirs of, appellants,
vs.
THE UNITED STATES, appellees.
} No. 158.—Trans. No. 570.

The answer of Cameron E. Thom, acting attorney of the U. States for the southern district of California, for and in behalf of the United States, to the petition of review of appellants, denies all and singular each and every allegation in appellants' petition.

And further, appellee denies generally the validity of the alleged title of appellants and claimants, and prays that the court will affirm the decision of the board of land com'rs, and decree the alleged title to be invalid, and general relief.

CAMERON E. THOM.
Acting Attorney of the United States for the Southern Dis't of Cal'a.

Filed Feb'y 6th, 1857.

C. SIMS, *Clerk.*

68
69

Decree.

In the district court of the United States for the southern district of California.—December term, 1856.

GABRIEL ESPINOZA, heirs of, appellants, *vs.* THE UNITED STATES, appellees. } No. 158.—Trans. No. 570. On appeal from the land comm'rs.

This cause coming on to be heard this day on an appeal from the decision of the commissioners to ascertain and settle the private land claims of the State of California, under the act of Congress approved March 3d, 1851, upon the transcript of the proceedings and decision, and the papers and evidence on which said decision was founded, and on additional evidence in this court; and it appearing that the said transcript has been duly filed according to law, and counsel for the respective parties having been heard, it is ordered, adjudged, and decreed, that the decision of the said commissioners be reversed, and that the claim of the heirs of Gabriel Espinosa is good and valid, and the same is hereby confirmed to them: and that the one undivided two-sevenths be confirmed to Lucinda E. Poque and to José Maria, Maria Jesus, Barbara, Lucilla, Juan, José Jesus, and José Manual Espinoza, children and heirs of said Gabriel Espinosa, the remaining undivided five-sevenths, in the proportion of one undivided seventh to each.

The lands hereby confirmed is the tract of land called "Salinas," in the county of Monterey, Cal'a, granted to Gabriel Espinosa
70 on the 15th of April, 1836, by Nicolas Gutierrez, and is of the extent of a little less than one square league, and no more, as described in the said grant and the map referred therein, reference being also had to the act of juridical possession of the date of the 7th of October, 1836, appearing in the said transcript.

February 6th, 1857.

ISAAC K. S. OGIER,
U. S. Dis't Judge for the South Dis't of Cal'a.

Filed Feb'y 6th, 1857.

C. SIMS, *Cl'k.*

71

Appeal.

United States district court, south'n dis't Cal'a.—December term, A. D. 1856.

FEB'Y 24TH, A. D. 1857.

HEIRS OF GABRIEL ESPINOSA, dec'd, *et al.*, *vs.* THE UNITED STATES. } No. 158.

On motion of P. Ord, U. S. dis't att'y, it is hereby ordered that an appeal be granted to the United States in this case.

New appeal.

United States district court, southern dis't, Cal'a.—December term, A. D. 1861.

DECEMBER 9TH, A. D. 1861.

HEIRS OF GABRIEL ESPINOSA, *et al.*, appellees, } No. 158, D. C.
vs. } No. 570, L. C.
THE UNITED STATES, appell't. } "Salinas."

And now comes J. R. Gitchell, esq., appointed at the request of the court to represent the United States, (there being no U. S. dis't att'y present,) and moves the court that a new appeal be allowed the U. S. in this case to the Supreme Court of the U. S., from the order and decree of this court heretofore rendered.

Which motion being heard, and by the court understood, is granted.

72 OFFICE OF THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

I, John O. Wheeler, clerk of the United States district court for the southern district of California, do hereby certify the foregoing seventy-one pages, numbered from 1 to 71, both inclusive, to contain a full, true, and correct transcript of the record of the proceedings, and of the decision of said court, of the documentary evidence, and of the testimony of the witnesses, upon which said decision was founded, on file in my office, in case No. 158 on the docket of said court, wherein the heirs of Gabriel Espinosa *et al.* are the claimants against the United States for the place known by the name of "Salinas."

In witness whereof, I have hereunto set my hand and affixed the seal of said court, at Monterey, Cal'a, this 15th day of April, A. D. 1862.

[SEAL.]

JOHN O. WHEELER,
Cl'k U. S. Dis't Court, South. Dis't, Cal'a.

Filed September 20, 1862. -